

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
WESTERN DIVISION**

BRANDON JOHNSON, #189267

PLAINTIFF

VERSUS

CIVIL ACTION NO. 5:19-cv-78-DCB-MTP

**STATE OF MISSISSIPPI; MISSISSIPPI
DEPARTMENT OF CORRECTIONS;
AND JOHN DOES**

DEFENDANTS

**ORDER DISMISSING DEFENDANTS STATE OF MISSISSIPPI
AND MISSISSIPPI DEPARTMENT OF CORRECTIONS**

Pro se Plaintiff Brandon Johnson (“Plaintiff”), an inmate of the Mississippi Department of Corrections, incarcerated at the Wilkinson County Correctional Facility (“WCCF”), brings this Complaint pursuant to 42 U.S.C. § 1983. Plaintiff is proceeding *in forma pauperis*. See Order [9]. Plaintiff names the following Defendants: (1) State of Mississippi; (2) Mississippi Department of Corrections; and (3) John Does, members of WCCF security staff.

On October 1, 2019, the Court entered an Order [10] advising Plaintiff that the State of Mississippi and the Mississippi Department of Corrections are not proper defendants in a § 1983 Complaint. Order [10] at 1. The Order provided Plaintiff with an opportunity to name any other individuals as Defendants. *Id.* Plaintiff filed his Response [11] wherein he states that he is not naming any other individuals as Defendants. Resp. [11] at 1.

Section 1983 provides, in pertinent part, “[e]very *person* who, under color of [state law], subjects . . . any citizen . . . thereof to the deprivation of any rights, privileges, or immunities secured by the Constitution and laws, shall be liable to the party injured.” 42 U.S.C. § 1983 (emphasis added). Neither the State of Mississippi nor its agencies are “amenable to suit under 42 U.S.C. § 1983 because they are not considered ‘persons’ within the meaning of the statute.”

Scott v. Miss. Dep't of Corr., No. 2:05-cv-2159, 2006 WL 1666258, at *2 (S.D. Miss. June 12, 2006) (citing *Will v. Mich. Dep't of State Police*, 491 U.S. 58 (1989)). The Mississippi Department of Corrections was established under statutory authority as an arm of the state, therefore, it is not considered a “person” under § 1983. Plaintiff cannot maintain this § 1983 Complaint against the State of Mississippi or the Mississippi Department of Corrections. Accordingly, it is hereby,

ORDERED that the State of Mississippi and the Mississippi Department of Corrections are dismissed as Defendants in this case.

Plaintiff is warned that his failure to advise this Court of a change of address or his failure to timely comply with any Order of this Court may result in the dismissal of this case.

SO ORDERED AND ADJUDGED this the 26th day of November, 2019.

s/David Bramlette

UNITED STATES DISTRICT JUDGE